

PTO/SB/66 (03-09)

Approved for use through 03/31/2012. OMB 0651-0016

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

**PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378 (c))**

Docket Number (Optional)

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

RECEIVED

FEB 22 2011

02/17/2011 DALLIN 00000020 6249126

01 FC:1599

940.00 OP

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. US 6,249,126Application Number 09/339,036Issue Date 06/19/2001Filing Date 06/23/1999

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable

The above -- identified patent

☐

Is a reissue of original Patent No. _____ original issue date _____

original application number _____

original filing date _____

☐

resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____

filed on _____

CERTIFICATE OF MAILING (37 CFR 1.89(a))

I hereby certify that this paper (*along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class main in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

02/15/2011

Date

/ws/

Signature

Wen-Rong Sheu

Typed or Printed Name of Person Signing Certificate

[page 1 of 3]

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g)) (Maintenance Fee \$1,240 was paid earlier.)

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$	3 ½ yr fee	(1551)	<input type="checkbox"/> \$	3 ½ yr fee	(2551)
<input type="checkbox"/> \$	7 ½ yr fee	(1552)	<input checked="" type="checkbox"/> \$ 1,240	7 ½ yr fee	(2552)
<input type="checkbox"/> \$	11 ½ yr fee	(1553)	<input type="checkbox"/> \$	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of \$ 1,640 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ 940

(\$700 of the surcharge fee was paid earlier.)

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of \$☐ Please charge Deposit Account No. the sum of \$☒ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

7. OVERPAYMENT

As to any overpayment made please

OR

☐

Credit to Deposit Account No. _____

☒

Send refund check

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

/winnie wang/

Signature(s) of Petitioner(s)

02/15/2011

Date

Winnie Wang

Typed or printed name(s)

Registration Number, if applicable

Telephone Number

G. Link Co., Ltd., 2885 Sanford Ave. SW #13265, Grandville, MI 49418

Address

Address

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

ENCLOSURES

☐

Maintenance Fee Payment

☒

Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☒

Supplemental Statement under 37 CFR 1.378(c), Statement under 37 CFR 3.73(b), Revocation,
and a copy of Decision on Petition dated December 6, 2010.

RECEIVED
CENTRAL FAX CENTER
FEB 15 2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

PATENT NO.: US 6,249,126

FEB 22 2011

ISSUE DATE: June 19, 2001

OFFICE OF PETITIONS

TITLE: CAPACITY DETECTING CIRCUIT FOR A BATTERY

INVENTOR: Tsun Huang Lin

ASSIGNEE: QUITWIN TECHNOLOGY CORPORATION

Hon. Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Attn: Office of Petitions

SUPPLEMENTAL STATEMENT UNDER 37 CFR 1.378(c)

The PETITION TO ACCEPT UNAVODIABLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT UNDER 37 CFR 1.378(b) was respectfully submitted on June 11, 2010 with payments of the eighth year maintenance fee \$1,240 and surcharge \$700.

Unfortunately, the Petition under 37 CFR 1.378(b) was dismissed on December 6, 2010. (A copy of the Decision on Petition is enclosed.)

The assignee of the entire right of the above-identified patent has authorized the previous attorneys to pay the eighth year maintenance fee. However, the previous attorneys forgot to pay the maintenance fee by the due date and even in the grace period with the surcharge, and it results in that the

US Patent No. 6,249,126

patent becomes expired.

After a thorough consideration, the assignee respectfully submits a PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT UNDER 37 CFR 1.378(c) with a payment of a deficit of surcharge \$940 instead of a Renewed Petition under 37 CFR 1.378(b).

Furthermore, a form of Revocation (PTO/SB/81A) and a form of Statement under 37 CFR 3.73(b) (PTO/SB/96) are respectfully submitted to revoke the previous attorneys and change the correspondence address.

It is sincerely requested that the Petition under 37 CFR 1.378(c) be granted, and this Action is respectfully solicited.

Respectfully submitted
/winnie wang/
Winnie Wang
Senior Manager of
Quitewin Technology Corporation

Dated: February 15, 2011



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 10

RECEIVED

WINNIE WANG
7F-3, NO. 79
SEC. 1, HSI-TAI-WU ROAD
HSI-CHIH, TAIPEI HSIEN, 221 TAIWAN

MAILED
DEC 06 2010
OFFICE OF PETITIONS

FEB 22 2011
OFFICE OF PETITIONS

In re Patent No. 6,249,126 :
Issue Date: 06/19/2001 :
Application No. 09/339,036 : DECISION ON PETITION
Filed: 06/23/1999 :
Title: CAPACITY DETECTING CIRCUIT :
FOR A BATTERY :

This is in response to the PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b)), filed June 11, 2010.

The patent issued June 19, 2001. The second maintenance fee could have been paid during the period from June 19, 2008 through December 19, 2008 or with a surcharge during the period from December 20, 2008 through June 19, 2009. Accordingly, this patent expired on June 20, 2009, for failure to timely remit the second maintenance fee.

37 CFR 1.378(d) requires that any petition under 37 CFR 1.378 must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest. There is no indication in the USPTO's records that Winnie Wang is an attorney or agent registered to practice before the USPTO or the patentee. Rather, it appears that Winnie Wang signed the present petition on behalf of the assignee. However, the Office does not consider Winnie Wang a person authorized to sign a petition under 37 CFR 1.378 because she failed to satisfy the requirements of 37 CFR 3.73(b).

Patent No. 6,249,126
Application No. 09/339,036

Page 2

Pursuant to 37 CFR 3.73:

(b)(1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:

- (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment)...For patent matters only, the submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or
 - (ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).
- (2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:
- (i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
 - (ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

The Office notes that neither the present petition nor the patent file includes a Statement under 37 CFR 3.73(b) authorizing Winnie Wang to act on behalf of the assignee, Quitewin Technology Corporation. The Office will not presume from the filing of the present petition that it is signed by a proper party pursuant to 37 CFR 1.378(d). See generally, MPEP 324 and 37 CFR 3.73(b). Thus, the petition is improperly signed.

The Office will not treat the present petition on the merits until petitioner submits a "renewed" petition under 37 CFR 1.378(b), signed by a person(s) having authority to act (e.g. a registered patent

Patent No. 6,249,126
Application No. 09/339,036

Page 3

attorney or agent, the patentee, or the assignee accompanied by a Statement under 37 CFR 3.73(b)). Accordingly, the petition is dismissed.

Although the Office will not address the petition on its merits, the Office reminds petitioner that the Director may accept the payment of any maintenance fee due on a patent after expiration of the patent if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Director to have been unavoidable and if the surcharge required by § 1.20(i) is paid as a condition of accepting payment of the maintenance fee. 37 CFR 1.378(a).

A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must include the following:

- (1) the required maintenance fee set forth in § 1.20(e) through (g);
- (2) the surcharge set forth in § 1.20(i)(1); and
- (3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

In determining whether the delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray v. Lehman, 55 F.3d 606, 608-609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995). The patent owner at the time of the expiration of the patent is ultimately the person responsible to ensure the timely payment of the maintenance fees. The patent owner may engage another to track and/or pay the maintenance fees; however, merely engaging another does not relieve the patent owner from his obligation to take appropriate steps to ensure the timely payment of such maintenance fees. See California Medical Prods. v. Tecnol Medical Prods., 921 F. Supp. 1219 (D. Del. 1995). Moreover, the USPTO must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of a patent owner, and a patent owner is bound by the consequences of those actions or

Patent No. 6,249,126
Application No. 09/339,036

Page 4

inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992). Specifically, delay caused by the actions or inactions of a voluntarily chosen representative does not constitute unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987). Therefore, any delay caused by the negligence or mistakes of a patent owner's voluntarily chosen legal representative does not constitute unavoidable delay. Haines v. Quigg, 673 F. Supp. at 317; Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981).

The patent file does not indicate a change of address has been filed in this case, although the address given in the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this patent, a change of correspondence address (and a power of attorney, if applicable) should be submitted. As a one-time courtesy, the Office will mail this decision to the address listed on the petition. Thereafter, all correspondence will be mailed to the address of record until the Office is notified otherwise.

In summary, petitioner must submit: (1) a "renewed" petition under 37 CFR 1.378(b) signed by an appropriate party as stated in 37 CFR 1.378(d); (2) a completed Statement Under 37 CFR 3.73(b) if the petition is being filed on behalf of the assignee; and, (3) a change of correspondence address signed by an appropriate party. Petitioner may supplement the petition if petitioner desires. The necessary forms accompany this communication for petitioner's convenience.

In the alternative, petitioner may wish to consider filing a petition under 37 CFR 1.378(c), requesting that the Office accept the unintentionally delayed payment of the second maintenance fee. The showing of unintentional delay is less burdensome and is evaluated under a less stringent standard than unavoidable delay.

A petition under 37 CFR 1.378(c) must be filed within twenty four months from the end of the six month grace period and be accompanied by (1) a verified statement that the delay was unintentional, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the \$1,640.00 surcharge (the \$700.00 surcharge previously paid may be credited thereto leaving a balance due of \$940.00). set forth in 37 CFR 1.20(i)(2).

A copy of the form for a Petition to Accept the Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c)) accompanies this decision for petitioner's convenience.

Patent No. 6,249,126
Application No. 09/339,036

Page 5

Further correspondence with respect to this matter should be addressed as follows:

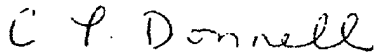
By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence may also be submitted via EFS-Web.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.



Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Statement Under 37 CFR 3.73(b) Form (PTO/SB/96); Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c)) Form (PTO/SB/66); Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(b)) Form (PTO/SB/65); and, Change of Address in a Patent Form (PTO/SB/123).